

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHELBY TYRONE CLARK, JR. :
Plaintiff, :
 :
v. : **Case No. 5:21-cv-4049-JDW**
 :
JAMES KREMUS, :
Defendant. :

ORDER

AND NOW, this 28th day of September, 2021, upon consideration of Plaintiff Shelby Tyrone Clark, Jr.'s Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is
ORDERED that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915;
2. Shelby Tyrone Clark, Jr., # 0205753, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Lehigh County Jail or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Clark's inmate account; or (b) the average monthly balance in Mr. Clark's inmate account for the six-month period immediately preceding the filing of this case. The Warden of Lehigh County Jail or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket

number for this case. In each succeeding month when the amount in Mr. Clark's inmate trust fund account exceeds \$10.00, the Warden of Lehigh County Jail or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Mr. Clark's inmate account until the fees are paid. Each payment shall refer to the docket number for this case;

3. The Clerk of Court shall send a copy of this Order to the Warden of Lehigh County Jail;

4. The Complaint is deemed filed;

5. For the reasons stated in the accompanying Memorandum, Mr. Clark's federal constitutional claims against Defendant James Kremus are **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii);

6. All state law claims are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction; and

7. The Clerk of Court shall close this case.

BY THE COURT:

/s/ Joshua D. Wolson
JOSHUA D. WOLSON, J.